

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3827 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL VIMALKUMAR JAGUBHAI

Versus

VICE CHANCELLOR

Appearance:

MR RR MARSHALL for Petitioner

None present for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/02/97

ORAL JUDGMENT

Heard learned counsel for the petitioner and perused the Special Civil Application.

2. The petitioner filed this Special Civil Application and challenge has been made to the order dated 27th June 1984, annexure 'F' of the respondent-University under which the result of the examination held in April 1984 of Second B.Com. of the

petitioner was cancelled and he has further been permanently debarred from appearing in any of the University examination and from joining any affiliated colleges or recognised institution of the University.

3. This order has been passed on the ground that the petitioner was found guilty of using unfair means at the University examination held in April 1984. The only contention made by the learned counsel for the petitioner Shri R.R. Marshall is that the penalty of debarring the petitioner permanently from appearing at University examination and from joining any affiliated college or recognised institution of that University is highly disproportionate. The petitioner could have been debarred for few years from appearing at any University examination and from joining any affiliated college or recognised institution or University, but his career could not have been spoiled once for all.

4. I find sufficient merits in this contention. The order of the University to debar the petitioner permanently from appearing in any University examination and from joining any affiliated college or recognised institution of the University permanently is highly excessive and harsh. The petitioner has already been debarred from appearing at any University examination for about more than eleven years and this is more than sufficient punishment and penalty for the act of using unfair means in the examination.

5. In the result, the writ petition succeeds in part and the order of the University, annexure 'F', dated 27th June 1984 is modified and it is hereby ordered that the petitioner shall be eligible for appearing at any University examination and further he will be eligible to join any affiliated college or recognised institution of South Gujarat University, Surat, from the academic year 1997-98. Rule made absolute in aforesaid terms with no order as to costs.

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(sunil)